

(c) *Retain Governmental Functions In-House.* Certain functions that are inherently governmental in nature, and intimately related to the public interest, mandate performance by DoD personnel only. These functions are not in competition with commercial sources; therefore, these functions shall be performed by DoD personnel.

(d) *Rely on the Commercial Sector.* DoD Components shall rely on commercially available sources to provide commercial products and services except when required for national defense, when no satisfactory commercial source is available, or when in the best interest of direct patient care. DoD Components shall not consider an in-house new requirement, an expansion of an in-house requirement, conversion to in-house, or otherwise carry on any CAs to provide commercial products or services if the products or services can be procured more economically from commercial sources.

(e) *Delegate Decision Authority and Responsibility.* DoD Components shall delegate decision authority and responsibility to lower organization levels, giving more authority to the doers, and linking responsibility with that authority. This shall facilitate the work that installation commanders must perform without limiting their freedom to do their jobs. When possible, the installation commanders should have the freedom to make intelligent use of their resources, while preserving the essential wartime capabilities of U.S. support organizations in accordance with DoD Directive 4001.1.²

(f) *Share Resources Saved.* When possible, make available to the installation commander a share of any resources saved or earned so that the commander can improve operations or working and living conditions on the installation.

(g) *Provide Placement Assistance.* Provide a variety of placement assistance to employees whose Federal jobs are eliminated through CA competitions.

[54 FR 13373, Apr. 3, 1989; 54 FR 21726, May 19, 1989]

²See footnote 1 to § 169.2(h)

§ 169.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Production and Logistics)* (ASD (P&L)), or designee, shall:

(1) Formulate and develop policy consistent with this part for the DoD CA program.

(2) Issue Instructions to implement the policies of this part.

(3) Maintain an inventory of in-house DoD CAs and the Commercial Activities Management Information System (CAMIS).

(4) Establish criteria for determining whether a CA is required to be retained in-house for national defense.

(5) Approve or disapprove core logistics waiver requests.

(b) The *Comptroller of the Department of Defense* (C, DoD) shall provide inflation factors and/or price indices and policy guidance to the DoD Components on procedures and systems for obtaining cost data for use in preparing the in-house cost estimate.

(c) The *Heads of DoD Components* shall:

(1) Comply with this part and DoD Instruction 4100.33.

(2) Designate an official at the Military Service Assistant Secretary level, or equivalent, to implement this part.

(3) Establish an office as a central point of contact for implementing this part.

(4) Encourage and facilitate CA competitions.

(5) Delegate, as much as practicable, broad authority to installation commanders to decide how best to use the CA program to accomplish the mission. Minimally, as prescribed by P.L. 100–180, section 1111 and E.O. 12615, installation commanders shall have the authority and responsibility to carry out the following:

(i) Prepare an inventory each fiscal year of commercial activities carried out by Government personnel on the military installation in accordance with DoD Instruction 4100.33.

(ii) Decide which commercial activities shall be reviewed under the procedures and requirements of E.O. 12615, OMB Circular A–76, and DoD Instruction 4100.33. This authority shall not be applied retroactively. Cost comparisons and direct conversions initiated,

Office of the Secretary of Defense

§ 169a.1

as of December 4, 1987, shall be continued.

(iii) Conduct a cost comparison of those commercial activities selected for conversion to contractor performance under OMB Circular A-76.

(iv) To the maximum extent practicable, assist in finding suitable employment for any DoD employee displaced because of a contract entered into with a contractor for performance of a commercial activity on the military installation.

(6) Develop specific national defense guidance consistent with DoD Instruction 4100.33.

(7) Establish administrative appeal procedures consistent with DoD Instruction 4100.33.

(8) Ensure that contracts resulting from cost comparisons conducted under this part are solicited and awarded in accordance with the FAR and the DFARS.

(9) Ensure that all notification and reporting requirements established in DoD Instruction 4100.33 are satisfied.

(10) Ensure that the Freedom of Information Act Program is complied with in responding to requests for disclosure of contractor-supplied information obtained in the course of procurement.

(11) Ensure that high standards of objectivity and consistency are maintained in compiling and maintaining the CA inventory and conducting the reviews and cost comparisons.

(12) Provide, when requested, assistance to installation commanders to ensure effective CA program implementation and technical competence in management and implementation of the CA program.

(13) Ensure that maximum efforts are exerted to assist displaced DoD employees in finding suitable employment, to include, as appropriate:

(i) Providing priority placement assistance for other Federal jobs.

(ii) Training and relocation when these shall contribute directly to placement.

(iii) Providing outplacement assistance for employment in other sectors of the economy with particular attention to assisting eligible employees to exercise their right of first refusal with the successful contractor.

(14) Maintain the technical competence necessary to ensure effective and efficient management of the CA program.

(15) Ensure, once the cost comparison is initiated, that the milestones are met, and completion of the cost comparison is without unreasonable delay.

PART 169a—COMMERCIAL ACTIVITIES PROGRAM PROCEDURES

Subpart A—General

Sec.

169a.1 Purpose.

169a.2 Applicability and scope.

169a.3 Definitions.

169a.4 Policy.

Subpart B—Procedures

169a.8 Inventory and review schedule (Reports Control Symbol DD-P&L(A)).

169a.9 Reviews: Existing in-house commercial activities.

169a.10 Contracts.

169a.11 Expansions.

169a.12 New requirements.

169a.13 CAs involving forty-five or fewer DoD civilian employees.

169a.14 Military personnel commercial activity.

169a.15 Special considerations.

169a.16 Independent review.

169a.17 Solicitation considerations.

169a.18 Administrative appeal procedures.

169a.19 Study limits.

Subpart C—Reporting Requirements

169a.21 Reporting requirements.

169a.22 Responsibilities.

APPENDIX A TO PART 169A—CODES AND DEFINITIONS OF FUNCTIONAL AREAS

APPENDIX B TO PART 169A—COMMERCIAL ACTIVITIES INVENTORY REPORT AND FIVE-YEAR REVIEW SCHEDULE

APPENDIX C TO PART 169A—SIMPLIFIED COST COMPARISONS FOR DIRECT CONVERSION OF CAs

APPENDIX D TO PART 169A—COMMERCIAL ACTIVITIES MANAGEMENT INFORMATION SYSTEM (CAMIS)

AUTHORITY: 5 U.S.C. 301 and 552.

SOURCE: 50 FR 40805, Oct. 7, 1985, unless otherwise noted.

Subpart A—General

§ 169a.1 Purpose.

This part: